98TH CONGRESS } HOUSE OF REPRESENTATIVES { REPT. 98–
1st Session } { 200 Part 2

OCEAN DUMPING AMENDMENTS ACT OF 1983

AUGUST 1, 1983.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HOWARD, from the Committee on Public Works and Transportation, submitted the following

REPORT

[To accompany H.R. 1761]

[Including cost estimate of the Congressional Budget Office]

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 1761) to amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

INTRODUCTION

H.R. 1761, as reported by the Committee on Merchant Marine and Fisheries, was sequentially referred to the Committee on Public Works and Transportation. The bill amends Title I of the Marine Protection, Research, and Sanctuaries Act of 1972.

Title I of that Act provides for the regulation of the dumping of materials into the ocean. Except as authorized by a permit issued pursuant to section 102 or 103 of the title, no person may transport any material from the United States for the purpose of dumping it into ocean waters. Without a permit, no material may be transported from any location for the purpose of dumping it into the ocean where a vessel or aircraft registered in the United States, or flying the United States flag, is involved, or where a United States Department, agency, or instrumentality is involved. Also, except as permitted under section 102, no person may dump any material transported from a location outside the United States into the territorial sea, or into the 12-mile contiguous zone to the extent it will affect the territorial sea or the territory of the United States.

Under section 102, the Administrator of the Environmental Protection Agency regulates the dumping of materials other than dredged material. Dredged material, under section 103, is regulated by the Secretary of the Army.

The Administrator is authorized to issue permits for dumping where the Administrator determines that the dumping will not unreason-

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ably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The Administrator is to establish and apply criteria for reviewing and evaluating permit applications.

The Administrator is authorized in section 102(c) to designate recommended sites or times for dumping and, when found necessary to protect critical areas, is required to designate sites or times within which dumping is prohibited.

Section 103 of Title I authorizes the Secretary of the Army to issue permits for the transportation of dredged material for the purpose of dumping it into ocean waters, where the Secretary determines that the dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The Secretary must apply the criteria established by the Administrator under section 102(a).

The Secretary makes an independent determination as to the need for the dumping, based upon an evaluation of the potential effects of a permit denial on navigation, economic and industrial development, and foreign and domestic commerce. An independent determination is also made as to other possible methods of disposal and appropriate locations for the dumping. In considering appropriate locations, the Secretary is directed to utilize, to the extent feasible, recommended sites designated by the Administrator.

Prior to issuing a permit, the Secretary must first notify the Administrator. When the Administrator disagrees with the Secretary's determination with regard to the section 102(a) criteria, or with regard to a site where dumping is prohibited under section 102(c), the determination of the Administrator prevails. Provision is made, however, for a waiver. When the Secretary finds that no economically feasible method or site is available for the disposition of the dredged material, a waiver is requested. The Administrator must grant the waiver within 30 days unless the Administrator finds that the dumping will result in an unacceptably adverse impact on municipal water supplies, shellfish beds, wildlife, fisheries, or recreational areas. Finally, in connection with Federal projects involving dredged material, the Secretary may, in lieu of the permit procedure, authorize ocean dumping through regulations which incorporate the same requirements which would apply in the case of Corps issued permits.

The bill reported by the Merchant Marine and Fisheries Committee is very similar to the version of H.R. 6113, 97th Congress, which was agreed to by the Committees on Merchant Marine and Fisheries and Public Works and Transportation after being sequentially referred to and reported by the latter Committee. A full description of the Public Works and Transportation Committee's actions on that bill is contained in House Report 97–562, Part 2.

H.R. 6113 passed the House on September 20, 1982, but was not acted upon by the Senate.

The amendments to Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 which were in H.R. 6113, and which also appear in H.R. 1761, include the following:

Wetlands are added to the list of factors to be considered when assesing the effects of dumping.

The discretionary authority of the Administrator to designate recommended dumping sites is made mandatory. This is designed to assure that adequate environmental studies are performed for all sites which are either being used or are proposed to be used for dumping.

In designating sites, the Administrator is directed to take into account a number of factors including types and quantities of wastes, the ability of the waters to disburse the wastes, the ecological importance of the site and the immediate and cumulative effects on human health and on the adjacent ecosystems.

The Administrator is required to periodically monitor or cause to be monitored the effects of dumping of materials at sites. If monitoring indicates that the site is no longer suitable for dumping, the dumping must either be limited or terminated.

The permit conditions provision of the Act is amended to provide authority to the Administrator and the Secretary to impose on permitees any special provisions deemed necessary to minimize the harm from dumping.

The Administrator and Secretary are directed to collect application fees to cover the reasonable administrative costs incurred in processing permits.

A provision is added requiring the Administrator and the Secretary to adhere to and apply the requirements of the London Dumping Convention that are binding upon the United States.

Existing dump sites being utilized pursuant to interim designations or court order are "grandfathered" by providing that existing law will continue to apply until completion of site designation or denial of site designation, with the exception of the following: The exceptions are monitoring requirements, permit conditions, writs of mandamus, site designation schedule, and authorizations of appropriations.

A mandamus provision is included permitting legal actions to compel site designation.

E.P.A. is directed to establish and submit to Congress within 6 months a schedule for completing the study and designation or denial of designation of all sites being used under an interim designation or a court order.

The Administrator and the Secretary are directed to establish and maintain quality assurance programs to insure the validity, accuracy and sufficiency of information submitted to or used by them in connection with applications for permits and other activities under the Act.

The Writs of Mandamus provision has been changed so that it applies only to sites for which site designation proceedings are not complete and at which dumping is taking place. This is designed to preclude the use of mandamus by an applicant to force designation of a new area.

A person who knowingly makes any false statement or certification, in an application, record, report or other document filed or maintained under the Act or who falsifies or tampers with a monitoring or testing device is punishable by a fine of not more than $10,000 or by imprisonment for not more than 6 months.

The bill reinstates the requirement that the Secretary of the Army report annually on his activities under the Act.

The Committee on Public Works and Transportation concurs in the amendments to Title I of the Marine Protection, Research, and Sanctuaries Act of 1972, as reported by the Committee on Merchant Marine and Fisheries.

Compliance With Clause 2(l) of Rule XI of the Rules of the House of Representatives

(1) With reference to clause 2(l)(3)(A) of rule XI of the House of Representatives, the Subcommittee on Investigations and Oversight did not hold hearings on the subject matter of the legislation. The Subcommittee on Water Resources held hearings on the bill.

(2) With respect to clause 2(l)(3)(B) of rule XI of the House of Representatives, H.R. 1761, as reported, does not provide new budget authority or increase tax expenditures. Accordingly pursuant to Section 308(a) of the Congressional Budget Act is not required.

(3) With reference to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee has received a report prepared by the Congressional Budget Office under section 403 of the Congressional Budget Act. That report is as follows:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., August 1, 1983.

Hon. James J. Howard,
Chairman, Committee on Public Works and Transportation, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 1761, the Ocean Dumping Amendments Act of 1983.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Nancy M. Gordon
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

August 1, 1983.

1. Bill number: H.R. 1761.
2. Bill title: Ocean Dumping Amendments Act of 1983.
3. Bill status: As ordered reported by the House Committee on Public Works and Transportation, July 28, 1983.
4. Bill purpose: The bill amends title I of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972 and authorizes the appropriation of $4.213 million to the Environmental Protection Agency (EPA) for fiscal year 1984 to administer the title. The bill would make mandatory the imposition of ocean dumping permit ap-

plication fees in an amount calculated to offset costs expected to be incurred in processing permits. Permit application fees may be assessed by EPA under current law, but there is no requirement that fees collected offset related costs.

5. Estimated cost to the Federal Government:

	Millions
Authorization level:	
Fiscal year:	
1984	$4.2
1985	---
1986	---
1987	---
1988	---
Estimated outlays:	
Fiscal year:	
1984	3.8
1985	0.4
1986	---
1987	---
1988	---

The costs of this bill fall within budget function 300.

It is estimated that the mandated collection of permit application fees will reduce net outlays of the Federal Government by about $400,000 per year.

Basis of Estimate.—The authorization level is that amount stated in the bill. For purposes of this estimate, it was assumed that the full amount authorized for 1984 will be appropriated prior to the start of that fiscal year. P.L. 98–45, an act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1984, and for other purposes, appropriates a total of $3.7 billion for the Environmental Protection Agency, but the amount to be allocated for this program has not yet been determined. The Administration's 1984 budget request for administering title I of the MPRSA was $3.996 million.

It is estimated that approximately fifty municipal and industrial ocean dumping permits will be processed per year, at a cost of about $8,000 each. Thus, if fees are set to cover costs, total fee income would be about $400,000 per year, compared to the negligible amounts currently collected. Outlays for the program were estimated based on historical spending patterns and information from the EPA.

6. Estimated cost to State and local governments: About 30 permits are issued to municipalities each year. The cost to local governments, at an estimated fee of $8,000 per permit, will thus be about $240,000 annually, with negligible related administrative costs.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 13, 1983, CBO prepared a cost estimate for this bill, as ordered reported by the House Committee on Merchant Marine and Fisheries. That version of H.R. 1761 was identical to the one ordered reported by the House Committee on Public Works and Transportation.

9. Estimate prepared by Anne Hoffman.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

(4) With reference to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

(5) With reference to clause 2(l)(4) of rule XI of the Rules of the House of Represetatives, the following information is provided: The effect of carrying out H.S. 1761, as reported, should be negligible with respect to prices and costs.

Cost of Legislation

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires a statement of the estimated costs to the United States which would be incurred in carrying out H.R. 1761, as reported, in Fiscal Year 1983, and each of the following five years. However, under paragraph (d) of clause 7 its provisions do not apply when the Committee has received a timely report from the Congressional Budget Office.

Committee Action and Vote

The Committee, in compliance with rule XI(2)(l)(2)(A) of the Rules of the House of Representatives, reports favorably the bill H.R. 1761, as reported by the Committee on Merchant Marine and Fisheries. The Committee ordered the bill reported by voice vote.

Changes in Existing Law Made by the Bill, As Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Rpresentatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

Marine Protection, Research, and Sanctuaries Act of 1972

* * * * * * *

DEFINITIONS

Sec. 3. For the purposes of this Act the term—

(a) "Administrator" means the Administrator of the Environmental Protection Agency.

(b) "Ocean waters" means those waters, *and the subjacent areas*, of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Terriorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

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(m) "Monitoring" means the systematic, time-series observation of materials, contaminants, or pertinent components of the marine ecosystem over a period of time sufficient to determine the existing levels, trends, and natural variations of measured components in the water column, sediments, and biota for the purpose of ensuring that immediate harmful effects of dumping are detected, and cumulative and long-term effects are detected, forecasted, and evaluated. Observations may include, but are not limited to, the following procedures,

depending upon the type of waste to be dumped and the characteristics of the site: (1) seasonal sampling and analyses of the infaunal community and sediment for purposes of characterizing structural composition and size distribution; (2) sampling and analyses of sediment and selected organisms to determine levels of hydrocarbon, trace metals, and chemical and pathogenic contaminants identified as constituents of wastes to be dumped; (3) profiling measurements of standard oceanographic parameters including dissolved oxygen, salinity, and water temperature; (4) characterization of large-scale surface topography and megafaunal structure and composition; and (5) sampling and analyses to determine levels of nutrients and organic carbon.

TITLE I—OCEAN DUMPING

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ENVIRONMENTAL PROTECTION AGENCY PERMITS

SEC. 102. (a) Except in relation to dredged material, as provided for in section 103 of this title, and in relation to radiological, chemical, and biological warfare agents and high-level radioactive waste, for which no permit may be issued, the Administrator may issue permits, after notice and opportunity for public hearings, for the transportation from the United States or, in the case of an agency or instrumentality of the United States, or in the case of a vessel or aircraft registered in the United States or flying the United States flag, for the transportation from a location outside the United States, or material for the purpose of dumping it into ocean waters, or for the dumping of material into the waters described in section 101(b), where the Administrator determines that such dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The Administrator shall establish and apply criteria for reviewing and evaluating such permit applications, and, in establishing or revising such criteria, shall consider, but not be limited in his consideration to, the following:

(A) The need for the proposed dumping.

(B) The effect of such dumping on human health and welfare, including economic, esthetic, and recreational values.

(C) The effect of such dumping on fisheries resources, plankton, fish, shellfish, wildlife, shore lines [and beaches.], *beaches, and wetlands.*

(D) The effect of such dumping on marine ecosystems, particularly with respect to—

(i) the transfer, concentration, and dispersion of such material and its byproducts through biological, physical, and chemical processes.

(ii) potential changes in marine ecosystem diversity, productivity, and stability, and

(iii) species and community population dynamics.

(E) The persistence and permanence of the effects of the dumping.

(F) The effect of dumping particular volumes and concentrations of such materials.

(G) Appropriate locations and methods of disposal or recycling, including land-based alternatives and the probable impact of requiring use of such alternate locations or methods upon considerations affecting the public interest.

(H) The effect on alternate uses of oceans, such as scientific study, fishing, and other living resource exploitation, and nonliving resource exploitation.

(I) In designating recommended sites, the Administrator shall utilize wherever feasible locations beyond the edge of the Continental Shelf.

In establishing or revising such criteria, the Administrator shall consult with Federal, State, and local officials, and interested members of the general public, as may appear appropriate to the Administrator. With respect to such criteria as may affect the civil works program of the Department of the Army, the Administrator shall also consult with the Secretary. In reviewing applications for permits, the Administrator shall make such provision for consultation with interested Federal and State agencies as he deems useful or necessary. No permits shall be issued for a dumping of material which will violate applicable water quality standards. To the extent that he may do so without relaxing the requirements of this title, the Administrator, in establishing or revising such criteria, shall apply the standards and criteria binding upon the United States under the Convention, including its Annexes.

(b) The Administrator may establish and issue various categories of permits, including the general permits described in section 104(c).

[(c) The Administrator may, considering the criteria established pursuant to subsection (a) of this section, designate recommended sites or times for dumping and, when he finds it necessary to protect critical areas, shall, after consultation with the Secretary, also designate sites or times within which certain materials may not be dumped.]

(c)(1) The Administrator shall designate sites at which materials may be dumped pursuant to this section and, after consultation with the Secretary, at which materials may be dumped pursuant to section 103; except that no site may be designated by the Administrator under this subsection until the Administrator undertakes and completes an analysis of the characteristics of the site and its suitability for dumping and of the environmental effects which will likely result from dumping. In undertaking such an analysis of each site, the Administrator shall take into consideration the criteria set forth in subsection (a) and shall specifically take into account the following factors:

(A) The types and quantities of wastes and pollutants projected to be deposited in, and adjacent to, the site from dumping and other sources.

(B) The ability of the waters at the site to disperse, detoxify, or neutralize the materials.

(C) The importance of the site to the surrounding biological community, including the presence of breeding, spawning, nursery or foraging areas, migratory pathways, or areas necessary for other functions or critical stages in the life cycle of marine organisms.

(D) The immediate and cumulative effects on human health and on the ecosystem adjacent to the site and the persistent effects on the ecosystem within the site.

Nothing contained in this paragraph shall be construed to limit the authority of the Secretary under section 103.

(2) The Administrator shall—

(A) periodically monitor, or cause to be monitored, the effects of the dumping of materials at or adjacent to each site for which the Administrator determines, on the basis of the characteristics of the site and the materials to be dumped, that such monitoring is necessary to accomplish the purposes of this title; and

(B) at the close of the third year after the site designation and at every three-year interval thereafter until such time as the designation is terminated, estimate the extent of the dumping and other waste inputs that will occur in and adjacent to each site during the next three-year period.

(3) If at any time the Administrator, on the basis of the factors taken into account under subparagraphs (A) through (D) of paragraph (1), or on the basis of the monitoring or estimates, or both, required under paragraph (2), determines that the site is no longer suitable for such dumping, the Administrator shall—

(A) limit dumping at the site to certain materials or at certain times or both; or

(B) suspend or terminate the designation of the site under paragraph (1).

In making a determination under the preceding sentence that a site is no longer, suitable for dumping pursuant to section 103, the Administrator shall consult the Secretary.

CORPS OF ENGINEERS PERMITS

SEC. 103. (a) Subject to the provisions of subsections (b), (c), and (d) of this section, the Secretary may issue permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of dumping it into ocean waters, where the Secretary determines that the dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

(b) In making the determination required by subsection (a), the Secretary shall apply those criteria, established pursuant to section 102(a), relating to the effects of the dumping. Based upon an evaluation of the potential effect of a permit denial on navigation, economic and industrial development, and foreign and domestic commerce of the United States, the Secretary shall make an independent determination as to the need for the dumping. The Secretary shall also make an independent determination as to other possible methods of disposal and as to appropriate locations for the dumping. In considering appropriate locations, he shall, to the extent feasible, utilize, the [recommended] sites designated by the Administrator pursuant to section 102(c).

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PERMIT CONDITIONS

SEC. 104. [(a) Permits issued under this title shall designate and include (1) the type of material authorized to be transported for dumping or to be dumped; (2) the amount of material authorized to be

transported for dumping or to be dumped; (3) the location where such transport for dumping will be terminated or where such dumping will occur; (4) the length of time for which the permits are valid and their expiration date; (5) any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, after consultation with the Secretary of the Department in which the Coast Guard is operating, for the monitoring and surveillance of the transportation or dumping; and (6) such other matters as the Administrator or the Secretary, as the case may be, deems appropriate.]

(a) Permits issued under this title shall designate and include—

(1) the type of material authorized to be transported for dumping or to be dumped;

(2) the amount of material authorized to be transported for dumping or to be dumped;

(3) the location where such transport for dumping will be terminated or where such dumping will occur;

(4) the length of time for which the permits are valid and their expiration date;

(5) and special provisions deemed necessary by the Administrator or the Secretary, as the case may be, to minimize the harm from dumping, which may include measures that the permittee must take to plan, develop, acquire, or implement, as appropriate—

(A) alternatives for the disposal of the material,

(B) processes for reducing or eliminating any contaminants in the material, or

(C) processes for recycling the material;

(6) after consultation with the Secretary of the Department in which the Coast Guard is operating, any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, for the monitoring and surveillance of the transportation or dumping; and

(7) such other matters as the Administrator or the Secretary, as the case may be, deems appropriate.

* * * * * * *

[(b) The Administrator or the Secretary, as the case may be, may prescribe such processing fees for permits and such reporting requirements for actions taken pursuant to permits issued by him under this title as he deems appropriate.]

(b) The Administrator or the Secretary, as the case may be shall prescribe and collect from the applicant, unless the applicant is a Federal agency, an application fee in an amount commensurate with the reasonable administrative costs incurred or expected to be incurred by the Administrator or Secretary in processing the permit. The application fee shall be deposited to the principal appropriation account or accounts used to carry out the processing of permits under this title.

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(e) (1) The Administrator or the Secretary, as the case may be, shall require an applicant for a permit under this title to provide such information as he may consider necessary to review and evaluate such application.

(2) The Administrator and the Secretary shall establish and maintain quality assurance programs to ensure the validity, accuracy, and sufficiency of information submitted to or used by the Administrator or the Secretary in connection with applications for permits or other activities undertaken pursuant to this title. Such quality assurance programs shall encompass, but not be limited to, the design, implementation, and analysis of sampling, testing, and monitoring procedures and results. The Administrator and the Secretary shall each individually report annually, in conjunction with the report required under section 112 of this title, on the status of implementation of this subsection: Provided, however, That the first such quality assurance report shall be submitted to the Congress no later than two hundred and seventy days after the effective date of this subsection.

* * * * * * *

(i)(1) Two years after the date of enactment of this subsection, the Administrator may not issue a permit under this title for the disposal of radioactive waste material until the applicant, in addition to complying with all other requirements of this title, prepares, with respect to the site at which the disposal is proposed, a Radioactive Material Disposal Impact Assessment which shall include—

(A) a listing of all radioactive materials in each container to be disposed, the number of containers to be dumped, the structural diagrams of each container, the number of curies of each material in each container, and the exposure levels in rems at the inside and outside of each container;

(B) an analysis of the environmental impact of the proposed action, at the site at which the applicant desires to dispose of the material, upon human health and welfare and marine life;

(C) any adverse environmental effects at the site which cannot be avoided should the proposal be implemented;

(D) an analysis of the resulting environmental and economic conditions if the containers fail to contain the radioactive waste material when initially deposited at the specific site;

(E) a plan for the removal or containment of the disposed nuclear material if the container leaks or decomposes;

(F) a determination by each affected State whether the proposed action is consistent with its approved Coastal Zone Management Program;

(G) an analysis of the economic impact upon other users of marine resources;

(H) alternatives to the proposed action;

(I) comments and results of consultation with State officials and public hearings held in the coastal States that are nearest to the affected areas;

(J) a comprehensive monitoring plan to be carried out by the applicant to determine the full effect of the disposal on the marine environment, living resources, or human health, which plan shall include, but not be limited to, the monitoring of exterior container radiation samples, the taking of water and sediment samples, and fish and benthic animal samples, adjacent to the containers, and the acquisition of such other information as the Administrator may require; and

(K) such other information which the Administrator may require in order to determine the full effects of such disposal.

(2) The Administrator shall include, in any permit to which paragraph (1) applies, such terms and conditions as may be necessary to ensure that the monitoring plan required under paragraph (1)(J) is fully implemented, including the analysis by the Administrator of the samples required to be taken under the plan.

(3) The Administrator shall submit a copy of the assessment prepared under paragraph (1) with respect to any permit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(4)(A) Upon a determination by the Administrator that a permit to which this subsection applies should be issued, the Administrator shall transmit such a recommendation to the House of Representatives and the Senate.

(B) No permit may be issued by the Administrator under this Act for the disposal of radioactive materials in the ocean unless the Congress, by approval of a resolution described in paragraph (D) within 90 days of continuous session of the Congress beginning on the date after the date of receipt by the Senate and the House of Representatives of such recommendation, authorizes the Administrator to grant a permit to dispose of radioactive material under this Act.

(C) For purposes of this subsection—

(1) continuity of session of the Congress is broken only by an adjournment sine die;

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 90 day calendar period.

(D) For the purposes of this subsection, the term "resolution" means a joint resolution, the resolving clause of which is as follows: That the House of Representatives and the Senate approve and authorize the Administrator of the Environmental Protection Agency to grant a permit under the Marine Protection, Research, and Sanctuaries Act of 1972 to dispose of radioactive materials in the ocean as recommended by the Administrator to the Congress on ————, 19—.": the first blank space therein to be filled with the appropriate applicant to dispose of nuclear material and the second blank therein to be filled with the date on which the Administrator submits the recommendation to the House of Representatives and the Senate.

(i) The Administrator or Secretary, as the case may be, may prescribe such reporting requirements as he or she deems appropriate with regard to actions taken by permittees pursuant to permits issued under this title.

PENALTIES

SEC. 105. (a) Any person who violates any provision of this title, or of the regulations promulgated under this title, or a permit issued under this title shall be liable to a civil penalty of not more than $50,000 for each violation to be assessed by the Administrator. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing of such violation. In

determining the amount of the penalty, the gravity of the violation, prior violations, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation shall be considered by said Administrator. For good cause shown, the Administrator may remit or mitigate such penalty. Upon failure of the offending party to pay the penalty, the Administrator may request the Attorney General to commence an action in the appropriate district court of the United States for such relief as may be appropriate.

(b) (*1*) In addition to any action which may be brought under subsection (a) of this section, a person who knowingly violates this title, regulations promulgated under this title, or a permit issued under this title shall be fined not more than $50,000, or imprisoned for not more than one year, or both.

(*2*) *Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this title or who falsifies, tampers with, or knowingly renders inaccurate any monitoring, sampling, or testing device or method required to be maintained or implemented under this title, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both. For purposes of this section, the term "person" shall mean, in addition to the definition contained in section 3(e) of this title, any responsible corporate officer.*

* * * * * * *

(f) If the provisions of any permit issued under section 102 or 103 are violated, the Administrator or the Secretary, as the case may be, may revoke the permit or may suspend the permit for a specified period of time. No permit shall be revoked or suspended unless the permittee shall have been given notice and opportunity for a hearing on such violation and proposed suspension or revocation.

(g) (1) Except as provided in paragraph (2) of this subsection any person may commence a civil suit on his own behalf to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any prohibition, limitation, criterion, or permit established or issued by or under this title. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such prohibition, limitation, criterion, or permit, as the case may be.

(2) No action may be commenced—

(A) prior to sixty days after notice of the violation has been given to the Administrator or to the Secretary, and to any alleged violator of the prohibition, limitation, criterion, or permit; or

(B) if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the prohibition, limitation, criterion, or permit; or

(C) if the Administrator has commenced action to impose a penalty pursuant to subsection (a) of this section, or if the Administrator, or the Secretary, has initiated permit revocation or suspension proceedings under subsection (f) of this section; or

(D) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or a State to redress a violation of this title.

(3)(A) Any suit under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Administrator or Secretary, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) Upon application of any person, the district courts of the United States shall have jurisdiction to issue writs of mandamus directing the Administrator to implement in a timely manner the site designation provisions of this title for those sites for which site designation proceedings are incomplete and at which dumping is authorized pursuant to permits issued under sections 102 and 103. Nothing in this paragraph is intended to affect the conduct of any dumping activity under a permit issued under this title pending the completion of site designation proceedings. Paragraph (4) of this subsection shall not apply to any suit brought pursuant to this paragraph.

[(5)**]***(6)* The **[**injunctive**]** relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Administrator, the Secretary, or a State agency).

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RELATIONSHIP TO OTHER LAWS

SEC. 106.
(a) * * *

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(g) To the extent that they may do so without relaxing the requirements of this title, the Administrator and the Secretary shall adhere to and apply the requirements of the Convention, including its annexes, that are binding upon the United States.

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EFFECTIVE DATE AND SAVINGS PROVISIONS

SEC. 110. (a) This title shall take effect six months after the date of the enactment of this Act.

(b) No legal action begun, or right of action accrued, prior to the effective date of this title shall be affected by any provision of this title.

SEC. 111. There are hereby authorized to be appropriated not to exceed $3,600,000 for fiscal year 1973, not to exceed $5,500,000 for each of the fiscal years 1974 and 1975, not to exceed $5,300,000 for fiscal year 1976, not to exceed $1,325,000 for the transition period (July 1 through September 30, 1976), not to exceed $4,800,000 for fiscal year 1977, not to exceed $4,800,000 for fisal year 1978, not to exceed $2,000,000 for each of fiscal year 1980, fiscal year 1981, [and] not to exceed $4,213,000 for fiscal year 1982, *and not to exceed $4,213,000 for fiscal year 1984*, for the purposes and administration of this title, and for succeeding fiscal years only such sums as the Congress may authorize by law.

[SEC. 112. The Administrator shall on or before February 1 of each year report to the Congress on the administration of this title during the preceding fiscal year, including recommendations for additional legislation if deemed necessary.]

SEC. 112. In March of each year, the Administrator and the Secretary shall each individually report to the Congress on the administration of this title during the previous calendar year.

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